THE HONOURABLE SMT. JUSTICE T. MEENA KUMARI
AND
THE HONOURABLE SRI JUSTICE G.CHANDRAIAH

W.P.No. 7443 OF 2007

ORAL ORDER:
(Per T. Meena Kumari, J)

The Writ Petition is filed seeking to quash the orders passed by the learned A.P. Administrative Tribunal, Hyderabad in O.A.No. 74 of 2007 dated 15.2.2007.

Brief facts of the Writ Petition are that:

Respondent herein is the applicant and petitioners herein are the respondents in O.A.No.74 of 2007 before the learned A.P. Administrative Tribunal, Hyderabad. For the purpose of convenience, the parties as arrayed before the learned tribunal are referred to hereinafter. Before the learned tribunal, the applicant has filed O.A. to declare the action of the respondents in not extending the benefit of G.O.Ms.No. 225 dated 18.5.1999 by relaxing the condition of passing Department Tests for considering the case of the applicant for promotion to the next higher post of Sub-Inspector of Prohibition and Excise while fixing the roaster point by taking into consideration of notional seniority list from 1961 as being illegal and arbitrary and to direct the respondents to consider the case of the applicant for promotion to the post of Sub-Inspector of Prohibition and Excise with retrospective effect and to fix the appropriate pay scale.

Heard the learned Government Pleader and also the learned counsel for the respondent.

It has been submitted by the learned Government Pleader

that this matter is covered by the judgment of the Full Bench of this Court reported in GOVT. OF A.P. LEGAL AFFAIRS, LAW (N) DEPARTMENT Vs. M. VENKATESWARLU[1]. The full bench held that the *ad hoc* rule notified in G.O.Ms.No. 225, dated 18.5.1999 restricting the benefit of exemption, only to those who have not been promoted even once after their initial appointment in public service, would apply both to selection and also to non-selection posts and the relaxation be restricted to the personnel who have not passed the departmental test and even who were not initially promoted from initial appointment.

The learned Government Pleader further submitted that the petitioner was initially appointed as Prohibition & Excise Constable and subsequently promoted as Prohibition & Excise Head Constable and now he is seeking promotion to the post of Prohibition & Excise Sub-Inspector. The learned Government Pleader further submits that in view of the Full Bench Judgment, the petitioner is not entitled to the benefit of G.O.Ms.No. 225.

The learned counsel for the respondent submits that the respondent has passed the departmental test. In such a case, even though the Writ Petition is disposed of in terms of the judgment of the full bench (1st cited supra), we have to observe that in case, the respondent has passed the departmental test, his case can be considered as per rules for further promotion.

With the above observations, the Writ Petition is disposed of.

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T. MEENA KUMARI, J

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G.
CHANDRAIAH, J

1.11.2007

CHV

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[1] 2007(5) A.L.T. 129(F.B)